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September 14, 2022

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**BY ECF**

Honorable Nathanael M. Cousins  
United States District Court for the Northern District of California  
San Jose Courthouse, Courtroom 5 – 4th Floor  
280 South 1st Street, San Jose, CA 95113

RE: *Diaz et al. v. Google LLC* (No. 5:21-cv-03080-NC)

Dear Judge Cousins:

I write to provide the court with a status update in advance of the Final Approval Hearing scheduled before your Honor on October 11, 2022 at 11 a.m. via Zoom. *See* Dkt. 71 (Preliminary Approval Order). On August 4, 2022, Class Counsel filed their motion for final approval as well as their motion for fees, expenses, and service awards. *See* Dkts. 74 & 75. Google does not oppose either motion.

At this time, the Settlement Administrator (KCC Class Action Services, LLC or “KCC”) has completed the Notice Program and concluded that the Program provided fully comports with the federal and local rules. *See* Ex. A (Peak Declaration) (providing details about Notice Program including the number of impressions delivered through the programmatic display advertising campaign). Further, neither KCC nor the parties (or their counsel) are aware of any objections to the proposed settlement. *See id.* The deadline for class members to object to the Settlement was **September 8, 2022**.

We thank the Court for its assistance and look forward to speaking again on October 11.

Respectfully submitted,



Douglas I. Cuthbertson

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT CALIFORNIA  
SAN JOSE DIVISION

JONATHAN DIAZ, and LEWIS  
BORNMANN, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No. 5:21-cv-03080-NC

CLASS ACTION

**DECLARATION OF CARLA A. PEAK RE:  
IMPLEMENTATION OF THE NOTICE  
PLAN AND STATUS OF ANY  
OBJECTIONS**

I, Carla A. Peak, declare and state as follows:

1. My name is Carla A. Peak. I have personal knowledge of the matters set forth herein, and if called as a witness I could and would testify competently to them.

2. I am a nationally recognized expert in the field of legal notice and I have served as an expert in dozens of federal and state cases involving class action notice plans.

3. I am the Vice President of Legal Notification Services for KCC Class Action Services, LLC (“KCC”). Pursuant to the Order Granting Plaintiffs’ Motion For Preliminary Approval Of Class Action Settlement (Dkt. 71, the “Preliminary Approval Order”) dated June 30, 2022, the Court appointed KCC as the Settlement Administrator in connection with the proposed Settlement of the above-captioned Lawsuit.<sup>1</sup>

4. This declaration supplements my previous declarations for the purpose of updating the parties and the Court with current case statistics.

#### **PUBLICATION NOTICE**

5. KCC purchased programmatically approximately 100,000,000 internet impressions for distribution on a variety of websites and mobile apps via the Google Display Network and via the Meta Audience Network, and directly on the social media and entertainment platforms owned by Meta (i.e., Facebook and Instagram) from July 15, 2022, through August 28, 2022. KCC has caused to be delivered a total of 102,840,126 impressions, resulting in an additional 2,630,126 impressions at no extra charge.

#### **SETTLEMENT WEBSITE**

6. KCC established and continues to maintain the Settlement Website, [www.GoogleExposureNotificationImprovements.com](http://www.GoogleExposureNotificationImprovements.com), dedicated to this matter to provide information to the Settlement Class Members about the settlement, important case deadlines and dates (including the Final Approval Hearing), and links to important case documents, to answer frequently asked questions, and to provide KCC’s contact information. As of September 11, 2022,

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Parties’ Settlement Agreement. See Dkt. 64-1 (Exhibit 1).

1 there have been 20,114 users, 23,994 sessions/hits (active visits to the Settlement Website), and  
2 26,082 pageviews of the Settlement Website.

3  
4 **TELEPHONE HOTLINE**

5 7. KCC established and continues to maintain a toll-free telephone number  
6 (1-844-494-0379) for potential Settlement Class Members to call and obtain information about the  
7 Settlement and/or request a physical notice consisting of the long form notice to be mailed to them.  
8 The telephone hotline became operational on July 14, 2022, and is accessible 24 hours a day, 7  
9 days a week. As of September 11, 2022, KCC has received a total of 4 calls to the telephone hotline.

10 **OBJECTIONS TO THE SETTLEMENT**

11 8. The postmark deadline for Settlement Class Members to object to the settlement was  
12 September 8, 2022. *See* Preliminary Approval Order at 10 (“Relevant Dates”). As of the date of  
13 this declaration, KCC has received no objections to the settlement.  
14

15 **CONCLUSION**

16 9. It remains my professional opinion that the Notice Plan described herein is  
17 consistent with other effective settlement notice programs, including those concerning Rule  
18 23(b)(2) settlements, which also provided notice to class members, including about injunctive relief  
19 and/or other non-monetary relief agreed thereto. In other words, I believe the notice program fully  
20 comported with Fed. R. Civ. P. 23 and complies with this District’s Procedural Guidance for Class  
21 Action Settlements.  
22

23 I, Carla A. Peak, declare under penalty of perjury under the laws of the United States of  
24 America that the foregoing is true and correct.

25 Executed this 14<sup>th</sup> day of September, 2022, at Sellersville, Pennsylvania.

26   
27

28 CARLA A. PEAK